IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5248 OF 2006

Pravin Arun Hire ...Petitioner

Versus

Arti Pravin Hire ....Respondent

Ramesh Dube for the petitioners.

Tejesh Dande for the respondents.

**CORAM: S.C.DHARMADHIKARI, J.**

**4th December, 2007.**

**P.C. :**

1. The respondent wife is duly served. It appears from the record that the order under challenge was passed on 5.4.2006. On 16.10.2006 the petitioner husband was directed to deposit a sum of Rs.1 lacs which amount has been deposited in this court. The respondent wife has not come forward to withdraw this sum either. Time was sought by the respondent on 27.11.2006 to place on record the details as to whether she is working as an Assistant Teacher in the college.

Affidavit was not filed despite time being granted. The Affidavit could not be filed for considerable period of time and thereafter it appears that there is an Affidavit-in-reply which is filed on record.

2. In my view, considering the fact that the order has been stayed by this court and further the respondent wife having not withdrawn the sum of Rs.1 lacs, interest of justice would be subserved if the order of stay granted by this court is continued for a period of four weeks to enable the petitioner to apply to the Trial Court for modification and/or variation of the impugned order which application must be considered on its own merits and uninflunced by the earlier order so also in the light of the materials placed before this court. Petition allowed in the above terms. Needless to state, that if the petitioner does not avail of this opportunity to file an application before the Trial Court seeking modification, within the aforesaid period, the impugned order would stand and thereafter all consequences in law would follow.

3. The amount which is deposited in this court shall

stand transferred to the credit of the present proceedings in the Family Court and the Family Court to invest the sum until the petitioner applies for modification of the order passed by this court. The deposit be initially for a period of six months. Petition disposed off. No order as to costs.

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